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DRAFT STATUTORY INSTRUMENTS

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**2012 No.**

**The Occupational and Personal Pension Schemes  
(Automatic Enrolment) (Amendment) Regulations 2012**

**Substitution of regulation 35**

5. For regulation 35 substitute—

**“Further conditions applicable to automatic enrolment schemes**

**35.—**(1) The conditions prescribed for the purposes of section 17(1)(c) (automatic enrolment schemes) of the Act are—

- (a) that the scheme must be—
  - (i) an occupational pension scheme within section 18(a) or (b) (occupational pension schemes) of the Act; or
  - (ii) a personal pension scheme where the operation of the scheme—
    - (aa) is regulated by a competent authority; and
    - (bb) is carried on by a person who is in relation to that activity authorised by a competent authority; and
- (b) where the scheme is an occupational pension scheme within the meaning of section 18(b) (occupational pension schemes) of the Act or a personal pension scheme where the operation of the scheme is carried on in accordance with subparagraph (a)(ii) by a person authorised by a competent authority other than that of the United Kingdom, the regulatory requirements applicable must provide that—
  - (i) at least 70% of the relevant benefits will be designated for the purpose of providing the jobholder with an income for life; and
  - (ii) the benefits payable to the jobholder under the scheme are payable no earlier than they would be under pension rule 1 in section 165(1) of the Finance Act 2004<sup>(1)</sup>.

(2) For the purposes of this regulation—

“competent authority” has, as the case may be, the meaning given in—

- (a) paragraph 4 of Article 4 of Directive [2006/48/EC](#) of the European Parliament and of the Council relating to the taking up and pursuit of the business of credit institutions<sup>(2)</sup>;
- (b) paragraph 22 of Article 4 of Directive [2004/39/EC](#) of the European Parliament and of the Council on markets in financial instruments<sup>(3)</sup>;
- (c) paragraph 1(h) of Article 2 of Directive [2009/65/EC](#) of the European Parliament and of the Council on the co-ordination of laws, regulations and administrative

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<sup>(1)</sup> [2004 c.12](#).

<sup>(2)</sup> OJL 177, 30.6.2006, p1.

<sup>(3)</sup> OJS 145, 30.4.2004, p1

provisions relating to undertakings for collective investment in transferable securities<sup>(4)</sup>; or

- (d) paragraph (n) of Article 1 of Directive [2002/83/EC](#) of the European Parliament and of the Council concerning life assurance<sup>(5)</sup>;

“regulatory requirements” includes provisions of legislation that concern tax;

“relevant benefits” means—

- (a) any money purchase benefits applicable to the jobholder; and
- (b) in relation to a defined benefits scheme, or the defined benefits element of a hybrid scheme, that provides for a sum of money to be made available for the provision of benefits to a member, that sum”.

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(4) OJL 302, 17.11.2009 p1.  
(5) OJL 345, 19.12.2002, p1.